

## **COVID-19 Fact Sheet for Employers**

### **Q. One of my employees is returning from an affected area and some of my staff are refusing to come into work as a result. Do I have to give these employees time off work with pay?**

Health and safety legislation gives a worker the right to refuse work that he or she reasonably believes is unsafe to himself/herself or another worker. In the case of a coronavirus-related refusal, you are advised to follow these steps:

1. Speak to the refusing employees to understand the nature of their concern. If the situation cannot be resolved with this discussion, then proceed to step 2.
2. Conduct an internal investigation to determine the validity of the work refusal.
3. If it is determined that there is no objective risk, but the refusing employees maintain their refusal, you must contact the applicable workplace health and safety agency/ministry to perform its own official investigation.
4. If the applicable workplace health and safety agency/ministry confirms the absence of risk and the refusing employees continue to refuse to return to work, then he or she may be disciplined.

### **Q. Do I have to accept working from home requests and what do I do if I don't have the right equipment for my staff?**

If the employee is neither symptomatic nor has reason to suspect that they are at elevated risk of having contracted coronavirus, and the employee's request to work from home is based on concern about contracting coronavirus from the workplace, then you may assess the employee's request as a refusal to perform work that they consider to be unsafe according to the steps outlined above.

If the employee is symptomatic or believes that they are at elevated risk of having contracted coronavirus, you may consider whether working from home is a viable option to protect other workers in your workplace. You may have a duty to accommodate an employee who is confirmed to have contracted coronavirus by permitting the employee to work from home and provide the employee with resources to do so if reasonably practicable in the circumstances. You may ask your employees to install relevant software that will allow them to use their personal laptop to facilitate working from home.

If working from home is simply not an option given the nature of the employee's work responsibilities, you may consider placing the employee on a medical leave of absence – consult applicable employment standards legislation and the employee's group benefits policy for information on the employee's potential entitlements while on medical leave of absence. If the employee is not entitled to statutory or group insurance benefits, employers should consider continuing to pay employees who have volunteered to self-quarantine due to suspected or actual symptoms of coronavirus.

**Q. One of my employees has self-isolated after returning from an affected area. Is the employee right to do this?**

If your employee has returned from an affected area, it's likely that they've been advised not to visit his or her family doctor, pharmacy, or hospital in case they have coronavirus. In this case, you will have to implement leave entitlements according to applicable employment standards legislative requirements and/or the employee's employment agreement and company policies.

If the employee is asymptomatic, you may also provide the employee with the option to work from home and conduct meetings remotely (e.g. via telephone or video conference).

**Q. One of my employees is off sick because of the coronavirus. Do the normal statutory sick leave entitlements apply?**

In the event an employee does contract coronavirus, the employee may be entitled to a leave as set out in the applicable employment standards legislation.

Refer to the following links for additional information on statutory leaves:

- Federal: <https://www.canada.ca/en/services/jobs/workplace/federal-labour-standards/leaves.html>
- Alberta: <https://www.alberta.ca/employment-standards.aspx>
- British Columbia: <https://www2.gov.bc.ca/gov/content/employment-business/employment-standards-advice/employment-standards>
- Ontario: <https://www.labour.gov.on.ca/english/es/>

On March 11, 2020, Prime Minister Justin Trudeau announced that the federal government is going to waive the mandatory one-week waiting period for employees to receive employment insurance (EI). For a

quarantined employee to be eligible for EI, a doctor, medical health professional or public health official must have imposed or recommended the quarantine.

In addition, the Ontario government has announced its intention to introduce legislation that, if passed, would immediately provide job-protected leave to employees

- in isolation or quarantine due to COVID-19, or;
- who need to be away from work to care for children because of school or day care closures

The proposed legislation would also make it clear that an employee will not be required to provide a medical note if they take the leave.

Finally, on March 13, 2020, Alberta announced that it is contemplating introducing 14 days of paid leave for workers who self-isolate due to the coronavirus or who are caring for someone affected by it. To date, nothing has come into effect.

**Q. My employee has plans to travel abroad for personal reasons and I've already approved their annual leave, can I stop them from going?**

No. While you can justify cancelling business travel, you might put yourself at risk of indirect discrimination claims if you stop employees travelling to a specific location for personal reasons.

However, if an employee plans to travel to a high-risk area, you may advise employees in advance of their trip that they will be required to self-quarantine for up to 14 days on return from the travel, or provide medical clearance that they have not contracted coronavirus prior to returning to work within 14 days of their return.

It is recommended for employers to send out regular updates to employees regarding the latest updates on the coronavirus and advise employees to be vigilant in monitoring travel advisory.

**Q. My employee is suffering from the symptoms of coronavirus. What should I do?**

If your employee exhibits flu-like symptoms (e.g., runny nose, sore throat, body pain), advise him or her to stay home and rest. If the employee exhibits the signs while at work, you can instruct the employee to return home, but ensure compliance with minimum reporting pay requirements.

The employee should then call the health line in their province or their personal doctor to discuss and assess the situation.

You are advised to implement leave entitlements according to the employment standards and consider any group benefits that the employee may be eligible to.

**Q. My business is at risk of exposure to coronavirus. If I decide to temporarily close my business, do I still need to pay my staff?**

Workplace closures may be considered in exceptional circumstances and should be based on a risk assessment. This may be the case if many employees must be off to prevent the spread of coronavirus.

An employer who chooses to shut down operations due to coronavirus can temporarily lay off its staff. If an employer chooses this route, the following steps should be taken:

- Communicate to employees that the layoff is temporary in nature.
- Input the requisite information to the temporary notice letter linked to on the Coronavirus Toolkit page.
- Issue the Record of Employment (ROE) coded “A”.

The parameters of temporary layoffs are set out in applicable employment standards legislation. Layoffs may only be permissible if employees' written employment agreements provide for temporary layoffs or if the employees consent to a temporary layoff. Refer to applicable employment standards legislation for employer obligations regarding temporary layoffs.

Other things to keep in mind:

- An employer is not required to pay employees while they are on a temporary layoff.
- If an employer provides employees with employee benefits (i.e. medical and dental), then those benefits must continue during the temporary layoff.
- While there is a risk that an employee might claim constructive dismissal if there is no contract of employment that contemplates the temporary layoff, given the climate, the risk is limited and justifiable.

- If an employee is laid off for a period longer than a temporary layoff as set out in applicable legislation, the employer is considered to have terminated the employee's employment. Generally, the employee will then be entitled to termination pay.

**Q. Can I make my employees use hand sanitizer?**

No, you cannot make your employees use hand sanitizer. However, you can promote good hygiene practices by putting up posters regarding hand hygiene techniques and procedures, encouraging employees to wash their hands regularly, and having hand sanitizers readily available.

**Q. Some of my employees want to wear masks in the workplace. Should I let them?**

You cannot stop your employees from wearing masks in the workplace. However, you can inform your employees that, according to public health officials, wearing masks does not prevent individuals from contracting the virus. You are not obligated to provide masks to your employees.

**Final thoughts:**

- Educate and update employees
- Review and rely on policies
- Use public health resources
- Keep legal obligations in mind, i.e. – human rights, employment standards, privacy, employment insurance, occupational health and safety
- Continue to monitor and be prepared to adapt
- If necessary, create task force/working group
- Update emergency contact information/systems